

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TAMI VOLK, et al.,

Plaintiffs,

v.

PIERCE COUNTY et al.,

Defendants.

No. C04-5315RBL

ORDER DENYING
PLAINTIFFS' MOTION
TO EXCLUDE EXPERTS

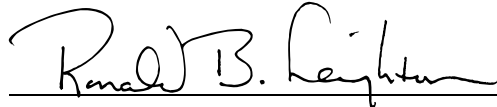
This matter is before the court on the Plaintiff's Motion to Exclude Defendants' Expert Witnesses [Dkt. #18]. The Motion is based solely on the apparently conceded fact that the expert witness disclosure was served two days late. The Trial Date is October 3, 2005.

Plaintiff's basis for the sanction of exclusion (or, in the alternative, limiting Defendants' experts to only rebuttal testimony) is Fed. R. Civ. P. 37(c). Defendants point out that (1) the two day delay has not caused the plaintiff any prejudice, and (2) the "experts" it has designated are not experts in the traditional sense, but rather employee fact witnesses who are likely to provide opinion testimony. They also correctly point out that the firm policy of this court is to decide cases on the merits, and not on the basis of procedural tactics. To grant the relief sought, under the circumstances here, would amount to a windfall to the plaintiffs. The Motion to Exclude is therefore DENIED in its entirety.

However, if and to the extent the expert witnesses identified and or alluded to by the Defendants are expected to provide "expert" testimony as the term is commonly understood in the context of Fed. R. Civ. P. 26, the Defendants shall promptly provide the required and requested information about their qualifications, prior testimony, and the like, under potential sanction of exclusion. It is expected that the

1 parties will cooperate in good faith regarding the resolution of this and any future discovery disputes.

2 DATED this 24th day of May, 2005.

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6 RONALD B. LEIGHTON
7 UNITED STATES DISTRICT JUDGE
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